

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-1916-PST-E **TCEQ ID:** RN101907780 **CASE NO.:** 36831
RESPONDENT NAME: Amirali Ladhani and Fatima Ladhani dba Rick's Drive In

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Rick's Drive In, 8157 Highway 281 South, Leming, Atascosa County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondents have expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steven Lopez, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1896; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Amirali Ladhani and Ms. Fatima Ladhani, Owners, Rick's Drive In, P.O. Box 1193, Poteet, Texas 78065 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 15, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 17, 2008 (NOE)</p> <p>Background Facts: This was an enforcement follow-up investigation.</p> <p>WASTE</p> <p>1) Failure to conduct effective manual or automatic inventory control procedures for the underground storage tank ("UST") system [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>2) Failure to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4) Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failure to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to</p>	<p>Total Assessed: \$9,760</p> <p>Total Deferred: \$1,952 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$333 (remaining \$7,475 due in 23 monthly payments of \$325 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>CN600934632 and CN603425364</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs at the Facility;</p> <p>b) Within 30 days after the effective date of this Agreed Order:</p> <p>i) Install and implement a release detection method for all USTs at the Facility and begin conducting volume measurement and reconciliation of inventory control records;</p> <p>ii) Permanently apply or affix tags, labels, or markings to the UST fill tubes with an identification number that matches the number listed on the UST registration and self-certification form; and</p> <p>iii) Secure all emergency shutoff valves at the base of the dispensers.</p> <p>c) Within 45 days after the effective date of this Agreed Order, submit an amended registration to reflect the current method of release detection for the UST system; and</p> <p>d) Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through c.</p>

<p>either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>6) Failure to ensure that the emergency shutoff valves (also known as a shear or impact valve) were securely anchored at the base of the dispensers [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>7) Failure to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition. Specifically, the registration was not updated to reflect the current method of release detection for the UST system [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>		
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Additional ID No(s): 74454



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	17-Nov-2008	Screening	20-Nov-2008	EPA Due	
	PCW	15-Dec-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Amirali Ladhani and Fatima Ladhani dba Rick's Drive In
Reg. Ent. Ref. No.	RN101907780
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36831	No. of Violations	5
Docket No.	2008-1916-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steven Lopez
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	22.0% Enhancement	Subtotals 2, 3, & 7	\$1,760
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Notes
Enhancement for one 1660 Agreed Order and one NOV for dissimilar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes
The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$99
Approx. Cost of Compliance \$2,300
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,760
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes
[Empty box]

Final Penalty Amount	\$9,760
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,760
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,952
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,808
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Screening Date 20-Nov-2008

Docket No. 2008-1916-PST-E

PCW

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In

Policy Revision 2 (September 2002)

Case ID No. 36831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101907780

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one 1660 Agreed Order and one NOV for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 20-Nov-2008		Docket No. 2008-1916-PST-E		PCW	
Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36831		<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101907780					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Steven Lopez					
Violation Number	<input type="text" value="1"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.48(c)"/>				
Violation Description	<input type="text" value="Failed to conduct effective manual or automatic inventory control procedures for the UST system."/>				
Base Penalty				<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		
				Percent <input type="text" value="25%"/>	
>> Programmatic Matrix					
Falsification					
Major					
Moderate					
Minor					
				Percent <input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				
Adjustment				<input type="text" value="\$7,500"/>	
				<input type="text" value="\$2,500"/>	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="36"/>	Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>	<input type="text"/>		
	weekly	<input type="text"/>	<input type="text"/>		
	monthly	<input type="text"/>	<input type="text"/>		
	quarterly	<input type="text" value="x"/>	<input type="text"/>		
	semiannual	<input type="text"/>	<input type="text"/>		
	annual	<input type="text"/>	<input type="text"/>		
	single event	<input type="text"/>	<input type="text"/>		
				Violation Base Penalty	<input type="text" value="\$2,500"/>
<input type="text" value="One quarterly event is recommended from the investigation date of October 15, 2008 to the screening date of November 20, 2008."/>					
Good Faith Efforts to Comply		0.0% Reduction		<input type="text" value="\$0"/>	
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>		
N/A	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		
Notes	<input type="text" value="The Respondents do not meet the good faith criteria for this violation."/>				
Violation Subtotal				<input type="text" value="\$2,500"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$21"/>	Violation Final Penalty Total		<input type="text" value="\$3,050"/>
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$3,050"/>	

Economic Benefit Worksheet

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In
Case ID No. 36831
Reg. Ent. Reference No. RN101907780
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	15-Oct-2008	20-Aug-2009	0.85	\$21	n/a	\$21
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to conduct proper inventory control procedures. The Date Required is the date of the investigation. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$500** **TOTAL** **\$21**

Screening Date 20-Nov-2008	Docket No. 2008-1916-PST-E	PCW		
Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36831	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101907780				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Steven Lopez				
Violation Number <input type="text" value="2"/>				
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A), (d)(1)(B)(ii), (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)			
Violation Description	Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	<input type="text" value="25%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment		<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>		
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="36"/> Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One quarterly event is recommended from the investigation date of October 15, 2008 to the screening date of November 20, 2008.				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>	
		<small>Before NOV NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
Notes	The Respondents do not meet the good faith criteria for this violation.			
Violation Subtotal		<input type="text" value="\$2,500"/>		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$63"/>	Violation Final Penalty Total	<input type="text" value="\$3,050"/>	
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$3,050"/>		

Economic Benefit Worksheet

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In
Case ID No. 36831
Reg. Ent. Reference No. RN101907780
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	15-Oct-2008	20-Aug-2009	0.85	\$63	n/a	\$63

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs including volume measurement and reconciliation of inventory control records. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,500	TOTAL	\$63
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Screening Date 20-Nov-2008		Docket No. 2008-1916-PST-E		PCW	
Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36831		<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101907780					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Steven Lopez					
Violation Number		<input type="text" value="3"/>			
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(C)"/>			
Violation Description		<input type="text" value="Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form."/>			
Base Penalty				<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
Harm					
OR	Release	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix					
Falsification					
Major Moderate Minor					
<input type="text"/>		<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes		<input type="text" value="100% of the rule requirement was not met."/>			
Adjustment				<input type="text" value="\$9,000"/>	
<input type="text" value="\$1,000"/>					
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		
		<input type="text" value="36"/>			
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>		
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text" value="x"/>			
<input type="text" value="One single event is recommended."/>					
Good Faith Efforts to Comply					
		<input type="text" value="0.0%"/>	Reduction <input type="text" value="\$0"/>		
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input type="text" value="x"/>	<small>(mark with x)</small>			
Notes		<input type="text" value="The Respondents do not meet the good faith criteria for this violation."/>			
Violation Subtotal				<input type="text" value="\$1,000"/>	
Economic Benefit (EB) for this violation					
Statutory Limit Test					
Estimated EB Amount		<input type="text" value="\$4"/>	Violation Final Penalty Total <input type="text" value="\$1,220"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$1,220"/>	

Economic Benefit Worksheet

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In
Case ID No. 36831
Reg. Ent. Reference No. RN101907780
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description No commas or \$

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	15-Oct-2008	20-Aug-2009	0.85	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to label the tank fill ports. The Date Required is the date of investigation. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$4

Screening Date 20-Nov-2008	Docket No. 2008-1916-PST-E	PCW	
Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36831	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101907780			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Steven Lopez			
Violation Number	4		
Rule Cite(s)	30 Tex. Admin. Code § 334.45(c)(3)(A)		
Violation Description	Failed to ensure that the emergency shutoff valves (also known as a shear or impact valve) were securely anchored at the base of the dispensers.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual		
	Potential	x	Percent 10%
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
			Percent 0%
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
Adjustment		\$9,000	
			\$1,000
Violation Events			
	Number of Violation Events	1	Number of violation days
		36	
<i>mark only one with an x</i>	daily		Violation Base Penalty \$1,000
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		
One quarterly event is recommended from the investigation date of October 15, 2008 to the screening date of November 20, 2008.			
Good Faith Efforts to Comply		0.0% Reduction	\$0
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondents do not meet the good faith criteria for this violation.		
Violation Subtotal		\$1,000	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$6	Violation Final Penalty Total	\$1,220
		This violation Final Assessed Penalty (adjusted for limits)	\$1,220

Economic Benefit Worksheet

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In
Case ID No. 36831
Reg. Ent. Reference No. RN101907780
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**

Item Description No commas or \$

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$100	15-Oct-2008	20-Aug-2009	0.85	\$0	\$6	\$6
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to properly secure emergency shutoff valves. The Date Required is the date of investigation. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100 **TOTAL** \$6

Screening Date 20-Nov-2008	Docket No. 2008-1916-PST-E	PCW	
Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36831	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101907780			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Steven Lopez			
Violation Number <input type="text" value="5"/>			
Rule Cite(s)	30 Tex. Admin. Code § 334.7(d)(3)		
Violation Description	Failed to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition. Specifically, the registration was not updated to reflect the current method of release detection for the UST system.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.		
Adjustment		<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>	
Violation Events			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="36"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="text" value="x"/>	
			Violation Base Penalty <input type="text" value="\$1,000"/>
One single event is recommended.			
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
		Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="text" value="x"/>	(mark with x)	
Notes	The Respondents do not meet the good faith criteria for this violation.		
Violation Subtotal		<input type="text" value="\$1,000"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$4"/>	Violation Final Penalty Total	<input type="text" value="\$1,220"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,220"/>

Economic Benefit Worksheet

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive In
Case ID No. 36831
Reg. Ent. Reference No. RN101907780
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	15-Oct-2008	20-Aug-2009	0.85	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the date of investigation. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$100**

TOTAL **\$4**

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603425364	Ladhani, Fatima	Classification: AVERAGE	Rating: 16.00
Regulated Entity:	RN101907780	Rick's Drive In	Classification: AVERAGE	Site Rating: 16.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	74454
Location:	8157 HWY 281 S, LEMING, TX, 78050			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	December 15, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 15, 2003 to December 15, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Steven Lopez	Phone:	.512-239-1896	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 03/23/2006 ADMINORDER 2005-0618-PST-E
Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)
Description: Failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 02/23/2004 | (288655) |
| 2 | 01/20/2005 | (292798) |
| 3 | 11/14/2008 | (704295) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 02/23/2004 (288655)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)
Description: FAILURE TO PROVIDE ACCEPTABLE FINANCIAL ASSURANCE.
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AMIRALI LADHANI AND FATIMA
LADHANI DBA RICK'S DRIVE IN
RN101907780

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1916-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Amirali Ladhani and Fatima Ladhani dba Rick's Drive In ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents appear before the Commission and together stipulate that:

1. The Respondents own and operate a convenience store with retail sales of gasoline at 8157 Highway 281 South in Leming, Atascosa County, Texas (the "Facility").
2. The Respondents' one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about November 22, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nine Thousand Seven Hundred Sixty Dollars (\$9,760) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid Three Hundred Thirty-Three Dollars (\$333) of the administrative penalty and One Thousand Nine Hundred Fifty-Two Dollars (\$1,952) is deferred contingent upon the Respondents' timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondents to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Four Hundred Seventy-Five Dollars (\$7,475) of the administrative penalty shall be payable in 23 monthly payments of Three Hundred Twenty-Five Dollars (\$325) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondents to meet the payment schedule of this Agreed Order constitutes the failure by the Respondents to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondents have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owners and operators of the Facility, the Respondents are alleged to have:

1. Failed to conduct effective manual or automatic inventory control procedures for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on October 15, 2008.

2. Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on October 15, 2008.
3. Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on October 15, 2008.
4. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on October 15, 2008.
5. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on October 15, 2008.
6. Failed to ensure that the emergency shutoff valves (also known as a shear or impact valve) were securely anchored at the base of the dispensers, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an investigation conducted on October 15, 2008.
7. Failed to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on October 15, 2008. Specifically, the registration was not updated to reflect the current method of release detection for the UST system.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Amirali Ladhani and Fatima Ladhani dba Rick's Drive In, Docket No. 2008-1916-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.

3. It is further ordered that the Respondents shall undertake the following technical requirements:

a. Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48.

b. Within 30 days after the effective date of this Agreed Order:

i. Install and implement a release detection method for all USTs at the Facility and begin conducting volume measurement and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50;

ii. Permanently apply or affix tags, labels, or markings to the UST fill tubes with an identification number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8; and

iii. Secure all emergency shutoff valves at the base of the dispensers, in accordance with 30 TEX. ADMIN. CODE § 334.45.

c. Within 45 days after the effective date of this Agreed Order, submit an amended registration to reflect the current method of release detection for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Remediation Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

d. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdelin
For the Executive Director

3/24/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Amirali Ladhani
Signature

02.6.09
Date

AMIRALI LADHANI
Name (Printed or typed)
Authorized Representative of
Amirali Ladhani dba Rick's Drive In

Owner
Title

Fatima Ladhani
Signature

02-06-09
Date

FATIMA LADHANI
Name (Printed or typed)
Authorized Representative of
Fatima Ladhani dba Rick's Drive In

Owner's wife
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.